

Internal Revenue Service, Treasury

§ 1.414(r)-0

- (1) In general.
- (2) Reported as an industry segment in conformity with Form 10-K or Form 20-F.
- (3) Timely filing of Form 10-K or 20-F.
- (4) Examples.
- (f) Safe harbor for separate lines of business that provide same average benefits as other separate lines of business.
 - (1) General rule.
 - (2) Separate lines of business benefiting disproportionate number of nonhighly compensated employees.
 - (i) Applicability of safe harbor.
 - (ii) Requirement.
 - (3) Separate lines of business benefiting disproportionate number of highly compensated employees.
 - (i) Applicability of safe harbor.
 - (ii) Requirement.
 - (4) Employees taken into account.
 - (5) Example.
- (g) Safe harbor for separate lines of business that provide minimum or maximum benefits.
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 - (i) Applicability.
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 - (iii) Defined benefit minimum.
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 - (C) Compensation definition.
 - (D) Average compensation requirement.
 - (E) Special rules.
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§ 1.414(r)-6 Qualified separate line of business—administrative scrutiny requirement—individual determinations.

- (a) In general.
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§ 1.414(r)-7 Determination of the employees of an employer's qualified separate lines of business.

- (a) Introduction.
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 - (3) Assignment of new employees for subsequent testing days.
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- (c) Assignment and allocation of residual shared employees.
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 - (A) Determination of percentage.
 - (B) Employees taken into account.
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 - (v) Examples.
 - (3) Pro-rata method of allocation.
 - (i) In general.
 - (ii) Allocation procedure.
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 - (i) In general.
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 - (iv) Reasonable allocation.

§ 1.414(r)-8 Separate application of section 410(b).

- (a) General rule.
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 - (1) In general.
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 - (i) General rule.
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 - (1) General rule.
 - (2) Examples.
- (d) Supplementary rules.

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- (1) In general.
- (2) Definition of plan.
- (3) Employees of a qualified separate line of business.
- (4) Consequences of failure.

§ 1.414(r)-9 Separate application of section 401(a)(26).

- (a) General rule.
- (b) Requirements applicable to a plan.
- (c) Supplementary rules.
 - (1) In general.
 - (2) Definition of plan.
 - (3) Employees of a qualified separate line of business.
 - (4) Consequences of failure.

§ 1.414(r)-10 Separate application of section 129(d)(8). [Reserved]

§ 1.414(r)-11 Definitions and special rules.

- (a) In general.

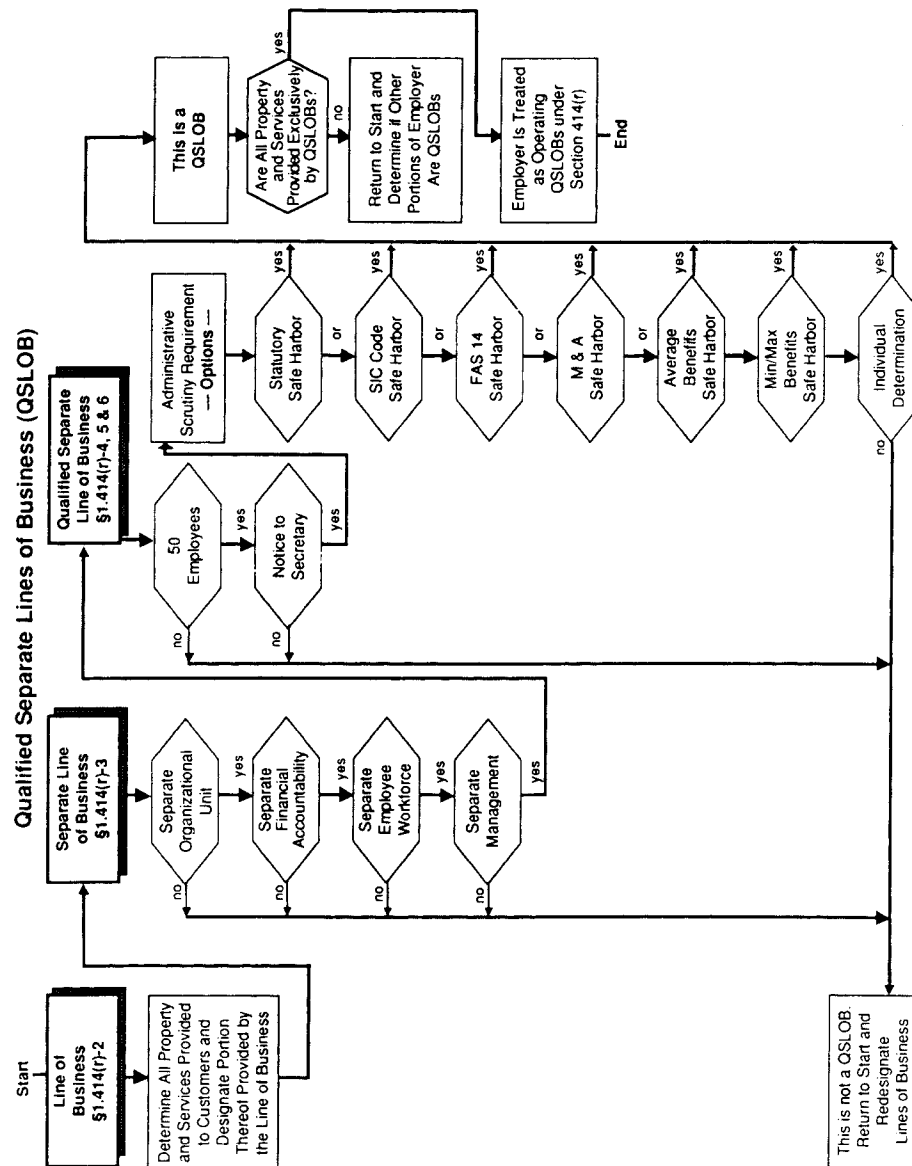
- (b) Definitions.

- (1) In general.
- (2) Substantial-service employee.
- (3) Top-paid employee.
- (4) Residual shared employee.
- (5) Testing year.
- (6) Testing day.
- (7) First testing day.
- (8) Section 401(a)(26) testing day.

- (c) Averaging rules.

- (1) In general.
- (2) Specified provisions.
- (3) Averaging of large fluctuations not permitted.
- (4) Consistency requirements.

(c) *Flowchart.* The following is a flowchart showing how the major provisions of §§ 1.414(r)-1 through 1.414(r)-6 are applied.



[T.D. 8376, 56 FR 63434, Dec. 4, 1991, as amended by T.D. 8548, 59 FR 32916, June 27, 1994]

§ 1.414(r)-1 Requirements applicable to qualified separate lines of business.

(a) *In general.* Section 414(r) prescribes the conditions under which an

employer is treated as operating qualified separate lines of business. If an employer is treated as operating qualified separate lines of business under section 414(r), certain requirements

under the Code may be applied separately with respect to the employees of each qualified separate line of business. These requirements are limited to the minimum coverage requirements of section 410(b) (including the non-discrimination requirements of section 401(a)(4)), the minimum participation requirements of section 401(a)(26), and the 55-percent average benefits test of section 129(d)(8). This section provides the exclusive rules for determining whether an employer is treated as operating qualified separate lines of business under section 414(r), as well as rules for applying the requirements of sections 410(b), 401(a)(26), and 129(d)(8) separately with respect to the employees of a qualified separate line of business.

(b) *Conditions under which an employer is treated as operating qualified separate lines of business*—(1) *In general.* An employer is treated as operating qualified separate lines of business under section 414(r) only if all property and services provided by the employer to its customers are provided exclusively by qualified separate lines of business. Thus, once an employer has determined its qualified separate lines of business under paragraph (b)(2) of this section, no portion of the employer may remain that is not included in a qualified separate line of business. In addition, once the employer has determined the employees of its qualified separate lines of business under paragraph (b)(3) of this section, every employee must be treated as an employee of a qualified separate line of business, and no employee may be treated as an employee of more than one qualified separate line of business.

(2) *Qualified separate line of business*—(i) *In general.* A qualified separate line of business is a portion of the employer that is a line of business within the meaning of paragraph (b)(2)(ii) of this section, that is also a separate line of business within the meaning of paragraph (b)(2)(iii) of this section, and, finally, that satisfies the requirements of section 414(r)(2) in accordance with paragraph (b)(2)(iv) of this section.

(ii) *Line of business.* A line of business is a portion of an employer that is identified by the property or services it provides to customers of the employer.

For this purpose, the employer is permitted to determine the lines of business it operates by designating the property and services that each of its lines of business provides to customers of the employer. Rules for determining an employer's lines of business are provided in § 1.414(r)-2.

(iii) *Separate line of business.* A separate line of business is a line of business that is organized and operated separately from the remainder of the employer. The determination of whether a line of business is organized and operated separately from the remainder of the employer is made on the basis of objective criteria. These criteria generally require that the line of business be organized into one or more separate organizational units (e.g., corporations, partnerships, or divisions), that the line of business constitute one or more distinct profit centers within the employer, and that no more than a moderate overlap exist between the employee workforce and management employed by the line of business and those employed by the remainder of the employer. Rules for determining whether a line of business is organized and operated separately from the remainder of the employer and thus constitutes a separate line of business are provided in § 1.414(r)-3. These rules include an optional rule for vertically integrated lines of business.

(iv) *Qualified separate line of business*—(A) *In general.* A qualified separate line of business must satisfy the three statutory requirements in section 414(r)(2). A separate line of business that satisfies these three statutory requirements in accordance with paragraphs (b)(2)(iv)(B) through (b)(2)(iv)(D) of this section constitutes a qualified separate line of business.

(B) *Fifty-employee requirement.* Under section 414(r)(2)(A), a separate line of business must have at least 50 employees. Rules for determining whether this requirement is satisfied are provided in § 1.414(r)-4(b).

(C) *Notice requirement.* Under section 414(r)(2)(B), the employer must notify the Secretary that it treats itself as operating qualified separate lines of business under section 414(r) for purposes of applying the requirements of section 410(b), 401(a)(26), or 129(d)(8)